

REMARKS

Applicant wishes to reiterate thanks to the Examiner for the useful comments obtained during the Telephonic Interview on October 21, 2003, in regards to the non-final Office Action mailed October 8, 2003. Claims 1-20 are pending in the application. The Examiner has made
5 a restriction requirement requiring election of either Group I claims (Claims 1-6, 8-12 and 17-19) or Group II claims (Claims 7, 13-16 and 20). Applicant herein confirms election with traverse the Group II claims (Claims 7, 13-16 and 20). Applicant has with traverse, canceled Claims 1-6, 8-12 and 17-19 related to the non-elected Group I claims. Applicant has herein amended Claims 7, 13-16 and 20, notwithstanding Applicant's belief that the originally filed
10 claims are allowable. Furthermore, Applicant has added Claims 21-32 related to embodiments of the present invention. No new matter has been added with this amendment to the claims. Therefore, reconsideration of the present application in light of the foregoing amendment and these remarks is respectfully solicited. Applicant traverses the rejections below.

I. Information Disclosure Statement is not prior art.

15

The Examiner has objected to a reference listed on the information disclosure statement filed on March 27, 2002 as not being prior art. Applicant agrees with the Examiner that the reference listed is not prior art, but is a priority document that the instant application claims priority to. As such, Applicant respectfully requests that the objection be withdrawn.

II. Drawings Introduce New Matter.

20

The Examiner has objected to the formal drawings as introducing new matter in that they include details not clearly depicted in the originally filed drawings. In particular, the Examiner first objects to "[t]he indicia of Figures 1-3 and 7 have been omitted." Applicant has herein
25 amended the figures 1-3 and 7 to include the indicia. The Examiner secondly objects that the

valve structure in Figure 3 is not clearly visible in the originally filed drawings. Referring to the description for Figure 3 within the Specification on paragraph 24, “the valve structure including a stem 20, a stopper 22, and attached to the stem and a gosset for reenforcement. The valve 14 may be selectively retractable.” As such, Applicant respectfully believes that the valve structure as shown in Fig 3 and described in paragraph [0024] is clearly disclosed. Thirdly, the Examiner has objected to an indiscriminate object in the original figure 4 is now missing. The Applicant has herein amended Figure 4 to contain materials described in paragraph [0025] of the Specification. As such, Applicant respectfully requests withdrawal of these objections to the drawings.

III. Objection of the Abstract

The Examiner has objected to the Abstract because it contains the objectionable phrase “the present invention is directed to.” Applicant has herein amended the Abstract removing this phrase. As such, Applicant respectfully requests withdrawal of this objection.

IV. Objection to Claim 20 informality

The Examiner has objected to the following informalities: in line 1, — bag – should be inserted after “said”. Applicant has herein amended the claim by adding the word bag after “said”. As such, the Examiner’s objection is moot. Thus, Applicant respectfully requests withdrawal of this objection.

V. Claims 7 and 13 are rejected under 35 U.S.C. § 112

The Examiner has rejected Claims 7 and 13 under 35 U.S.C. § 112, first paragraph, stating that “[t]here is no description for “means for sealing the two flexible members such that

a chamber forms there between.” However, to the contrary, the “means for sealing” is described, for instance, within the Specification, in paragraph [0024] reciting:

“when it is desirable to seal the chamber 16, the stopper 22 may be inserted into the stem 20, which is then pushed inward into the chamber 16 in a retracted position, as shown in Fig.3.

5 This position prevent[s] leakage from the chamber 16

Additionally, Figs 1-7 further depict different embodiments of the sealed chamber 16. Further, the Specification paragraph [0021] recites “a plurality of flexible members may be joined to form a chamber 16.” Finally, the Specification in paragraph [0029] invokes
10 provisions of 35 U.S.C. § 112 , sixth paragraph. Thus, the “sealing means” for a first and a second flexible member is fully described. As such, Applicant respectfully requests withdrawal of this objection.

The Examiner has rejected Claims 7-13, 13-16, and 20 under 35 U.S.C. § 112, first paragraph, as being indefinite for failing to particularly point out and distinctly claim the
15 subject matter which Applicant regards as the invention. In particular, “means for sealing the two flexible members such that a chamber forms therebetween.” This objection should be withdrawn based on similar arguments in the above paragraph.

Further, the Examiner has rejected Claim 16 recited limitation “the step”. Applicant has replaced “step” with “slim” to correct for an inadvertent error occurring during the claim
20 drafting process. As such, this rejection should be moot. Finally, the Examiner has rejected Claim 20 for reasons including lack of antecedent basis for the limitation” the end” and “the cylindrical hollow space”, and the structure of the bag as being unclear. Applicant has herein amended Claim 20 to further clarify the structure of the present invention. As such, Applicant herein respectfully requests withdrawal of the rejections for Claims 7-13, 13-16 and 20 under
25 35 U.S.C. § 112.

V. Rejection of Claims 7 and 13-15 and 20 are rejected under 35 U.S.C. § 102(b)

In the Office Action, the Examiner rejected Claims 7, 13-15 and 20 under 35 U.S.C. §102(b) Claims 7 and 13-15 as being anticipated by Duvall et al., U.S. patent 3,554,135. Applicant respectfully traverses the rejection.

5 The Examiner states that in Duvall et al., valve 15 provides flow restriction and a hanging means. However, contrary to Duvall et al., herein original Claim 7, i.e., dependent Claim 7 written in independent form, reciting:

10 “... a means for sealing said flexible members.” Specifically, on closer inspection of paragraph [0024] in the Specification describes “when it is desirable to seal the chamber 16, the stopper 22 may be inserted into the stem 20, which is then pushed inward into the chamber 16 in a retracted position, as shown in Fig.3. This position prevent[s] leakage from the chamber 16

15 In addition, Figs 1-7 show different embodiments of a sealed chamber. As such, herein amended Claim 7 teaching a sealing means which includes a retractable position is not taught by Duvall. As such, herein original Claim 7 rejection should be withdrawn. Further, herein amended independent Claim 13 reciting the limitation “... a retractable means ...” as stated above, is distinctive from Duvall. As such, Applicant respectfully requests that herein amended Claim 13 rejection be withdrawn and Claim 13 pass to allowable. Further, herein
20 amended dependent Claim 14 should be allowable based on its dependency on herein amended independent Claim 13. Furthermore, Claim 14 should be allowable based on comprising the additional limitation not found in Duvall further clarifying that “the retractable means comprises a stem mechanically attached to a stopper to seal said chamber.” As such, the Claim 14 rejection should be withdrawn and Claim 14 pass to allowance.

25 Herein amended Claim 15 should be allowable based on depending on herein amended allowable Claim 13. As such the Claim 15 rejection should be withdrawn. In the Office

Action, the Examiner rejected Claim 20 under 35 U.S.C. §102(b) as being anticipated by Sturtevant, et al., U.S. patent 2,533,202. Applicant respectfully traverses the rejection.

The Examiner states that Sturtevant has a slit in Figure 2 and a plug in Figure 1. However, contrary to Sturtevant herein amended Claim 20, recites "... a retractable valve
5 having a sealed end which is extendable into the flared portion." which is fully described in the Specification in paragraph [0024]. Specifically, the valve in Sturtevant is non-retractable and the Sturtevant valve when its end is sealed cannot extend into the chamber. Furthermore, Sturtevant does not describe a slim slit adjacent to the sealed end as described in the Specification in paragraphs [0024] and [0025] and depicted in Figures 8-10 of the present
10 invention . As such, this rejection of Claim 20 should be withdrawn.

As such, Applicant respectfully requests Claim 7, 13-15 and 20 pass to allowance.

VI. Rejection of Claims 16 under 35 U.S.C. § 103(e):

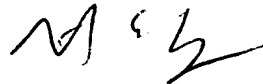
Claim 16 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Duvall
15 et al., in view of Schuster et al. Applicant respectfully hereby traverses the rejection.

Contrary to the present invention, Duvall even in view of Schuster merely teaches, suggests, or motivates that a claimed container may have a valve with a stopper to prevent leakage. However, Applicant's herein amended independent Claim 13 from which Claim 16 depends positively recites the limitations that the valve has "a retractable means ..." which is
20 not taught suggested, nor motivated by the prior art alone or in combination and is fully supported by the paragraph [0024]. Furthermore, Claim 16 should be allowable based on its dependency on herein amended independent Claim 13. As such, Applicant respectfully requests withdrawal of the rejection and passage to allowance of Claim 16.

CONCLUSION

Independent Claims 7, 13-16 and 20 are herein amended, notwithstanding Applicant's belief that the claims would have been allowable as originally filed. Applicant respectfully submits that the presently claimed invention is patentably distinct over the cited references, and Applicant therefore believes that the claims, as amended, now are not anticipated by Duvall et al., or Sturtevant as required by 35 U.S.C. §102(e), are non-obvious by Duvall et al., in view of Sturtevant as required by 35 U.S.C. §103. Therefore, Applicant believes the present invention as now claimed is patentable. In view of the foregoing amendment and remarks, Applicant requests favorable consideration by the Examiner, entry of the above amendment, withdrawal of the present rejections, allowance of the pending claims, and passage of the present application to issuance are accordingly solicited. The Examiner is cordially invited to telephone the undersigned for any reason which would advance the pending claims toward allowance.

Respectfully submitted,



Robert E. Kasody
Reg. No. 50,268

REK/sf

Dated: Jul 17, 2003

LARIVIERE, GRUBMAN & PAYNE, LLP

Post Office Box 3140

Monterey, CA 93942

(831) 649-8800